

## **Final Rejection**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartfield et al. (U.S. Patent Number 4,618,073) in further view of Wittern Jr. et al. (U.S. Patent Number 5,791,516).

Referring to claims 1 and 3. Bartfield discloses a dispensing assembly (Figure 1) comprising:

a dispensing device for cups, each comprising a store for a series of nested cups (13-20; Figure 1), a dispensing mechanism (44) for removing individual cups from said series (13-20) and displacing the individual cups (22; Figure 8), and actuating means (138; see Figures 8 and 9 in entirety) for said dispensing mechanism (44).

Bartfield does not specifically disclose the store of cups comprising a plurality of different sizes.

Wittern discloses a vending apparatus wherein the actuating means (Figure 15)

Art Unit: 3651

is controlled by an electronic controller (11), which is activated upon depositing the appropriate moneys or tokens in the vending apparatus.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Bartfield to include a store of cups comprising a plurality of different sizes because the dispenser would be able to provide a greater selection of articles to be dispensed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include an input mechanism in the cup (or vases) dispensing assembly of Bartfield as taught by Wittern to dispense an individual cup upon reacting to an insertion of a token input because the cups could be electronically dispensed without a need for a salesperson thus reducing the operating cost.

It would have been further obvious to one of ordinary skill in the art at the time the invention was made to have the dispensing assembly dispense different size cups from one assembly in order to increase the selection.

It would have also been further obvious to one of ordinary skill in the art at the time the invention was made to include two dispensing devices as compared to a the single dispensing device as disclosed by the teaching of Bartfield in order to allow multiple users to access the dispensed items. Further, it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Referring to claim 2 and 14. Bartfield discloses a dispensing assembly (Figure 1) in which the store (see store area holding cup sleeves; Figure 1) is designed to receive multiple series (13-20) arranged next to one another, one series (series 20) being arranged so as to interact with the said dispensing mechanism (44), and conveyor means (40-42) being provided in order to move the other series (12-19) into the position of the first series (20).

### ***Response to Arguments***

In response to applicant's argument that the prior art discloses the dispensing of cups and the applicants invention refers to vases, and two are considered to be functionally different, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3651

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAKESH KUMAR whose telephone number is (571) 272-8314. The examiner can normally be reached on M-F 8 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3651

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gene Crawford/  
Supervisory Patent Examiner, Art  
Unit 3651

/RAKESH KUMAR/  
Examiner, Art Unit 3651